

**Congress of the United States**  
**Washington, DC 20515**

March 26, 2021

The Honorable Xavier Becerra  
Secretary of Health and Human Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

Dear Secretary Becerra,

Congratulations on your recent confirmation as the Secretary of Health and Human Services. We look forward to working with you and your team to address the numerous health care challenges facing our nation during these unprecedented times. We write today with a sense of urgency to ask that the Centers for Medicare and Medicaid Services (CMS) address a payment policy decision made by the previous administration that has created unprecedented financial harm to hospitals and other health providers in New Jersey.

The COVID-19 pandemic has taken a particularly cruel toll on our state. New Jersey hospitals rose to the challenge in the early, dark days of the pandemic when little was known about the virus and how to treat it. Last year, in the midst of the ongoing pandemic, the Trump Administration finalized a rule that removes three New Jersey counties – Middlesex, Monmouth, and Ocean – from the New York-Newark-Jersey City core-based statistical area (CBSA) for purposes of calculating the Medicare Area Wage Index adjustment in the FY21 Final Inpatient Prospective Payment System Rule [CMS-1735-F].

CMS typically adopts major revisions to CBSAs based on labor data gleaned from each decennial census. Relying on inaccurate and out-of-date employment and commuting data, CMS opted to break from this historical practice by adopting what they describe as “significant rearrangement in the constituent counties among the New York City Area Metropolitan Divisions” – rearrangements that the agency itself noted will result in a nearly 17 percent decrease in the wage index for the impacted providers. The New Jersey Hospital Association estimates that the hospitals impacted by this policy will experience a reduction in Medicare payments by well over \$100 million per year beginning in FY 2022.

This decision further exacerbated the existing inequitable labor market conditions for New Jersey health care providers. Not only was this massive restructuring of New Jersey’s health care labor market adopted without the benefit of accurate and up-to-date census data, CMS acknowledged that it was implementing the policy despite being unable to “complete an extensive review and verification of the changes” to labor market statistics provided by the Office of Management and Budget (OMB) in March 2020. Moreover, there is reason to believe that the underlying data used

to delineate the new CBSAs was collected during the economic upheaval that resulted from Superstorm Sandy – the deadly and destructive 2012 hurricane that resulted in economic losses totaling \$30 billion in New Jersey alone.

CMS should not have implemented this CBSA policy change until the decennial census data became available. But to advance the policy in the midst of the COVID-19 crisis that heavily impacted our hospitals showed a lack of foresight and understanding of this policy's impact.

As we enter the second year of this pandemic, hospitals in our state continue to provide essential care to New Jersey residents while incurring the dual impact of skyrocketing expenses and plunging revenue. Despite the federal financial relief provided by Congress, 41 percent of New Jersey hospitals are operating in the red. We strongly urge the agency to protect New Jersey providers and promote payment stability by ceasing implementation of the policy until the census data is released. In addition, we ask that CMS honor previously approved Geographic Classification Review Board reclassifications for facilities that applied for reclassification to the New York City-White Plains, NY-NJ CBSA.

We appreciate the role that you and your department will play in the coming months and years as we work to address the long-term impacts of COVID-19 pandemic. We recognize the enormity of the task ahead and stand ready to serve as your partners. We ask that you recognize the essential role that New Jersey hospitals have played in responding to the public health emergency, and halt implementation of the harmful CBSA policy.

Thank you for your consideration on these critical issues.

Sincerely,

/s/ Robert Menendez  
Robert Menendez  
United States Senator

/s/ Bill Pascrell, Jr.  
Bill Pascrell, Jr.  
Member of Congress

/s/ Cory A. Booker  
Cory A. Booker  
United States Senator

/s/ Frank Pallone, Jr.  
Frank Pallone, Jr.  
Member of Congress

/s/ Josh Gottheimer  
Josh Gottheimer  
Member of Congress

/s/ Bonnie Watson Coleman  
Bonnie Watson Coleman  
Member of Congress

/s/ Tom Malinowski  
Tom Malinowski  
Member of Congress

/s/ Andy Kim  
Andy Kim  
Member of Congress